

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cloey Romans	Team: Squad #15	CCRB Case #: 202105659	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Incident Date(s) Monday, 09/20/2021 6:41 PM	Location of Incident: Belt Parkway and 79th Street	18 Mo. SOL 3/20/2023	Precinct: 63
Date/Time CV Reported Tue, 09/21/2021 12:10 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 09/21/2021 12:10 PM

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Ricky Poh	08595	961110	HWY 02

Officer(s)	Allegation	Investigator Recommendation
A . POM Ricky Poh	Force: Police Officer Ricky Poh pointed his/her gun at § 87(2)(b)	
B . POM Ricky Poh	Abuse: Police Officer Ricky Poh threatened § 87(2)(b) with the use of force.	
C . POM Ricky Poh	Discourtesy: Police Officer Ricky Poh spoke discourteously to § 87(2)(b)	

## Case Summary

On September 20, 2021, § 87(2)(b) submitted this complaint with the Civilian Complaint Review Board, via Call Processing System.

At approximately 6:41 p.m. on September 20, 2021, Police Officer Ricky Poh attempted to stop § 87(2)(b) vehicle for exceeding the speed limit on the Belt Parkway, Brooklyn. After § 87(2)(b) failed to initially stop, PO Poh pulled his police vehicle alongside § 87(2)(b) and pointed his gun at § 87(2)(b) through the open window (**Allegation A: Force** § 87(2)(g) (**Allegation B: Abuse of Authority** § 87(2)(g) and told § 87(2)(b) to, “Pull the fuck over” (**Allegation C: Discourtesy** § 87(2)(g) § 87(2)(b) proceeded to stop his vehicle, at which point PO Poh approached him and issued § 87(2)(b) five summonses for VTL infractions.

§ 87(2)(b) sent a cellphone video, attached as IA #18 (Board Review 02). BWC and Dashcam videos were obtained and are linked in the case file under IA #40 (Board Review 04).

## Findings and Recommendations

**Allegation (A) Force: Police Officer Ricky Poh pointed his gun at § 87(2)(b)**  
**Allegation (B) Abuse of Authority: Police Officer Ricky Poh threatened § 87(2)(b) with the use of force.**

§ 87(2)(b) provided a statement on September 28, 2021. No other civilians or witnesses were identified. PO Poh was interviewed on December 13, 2021. No other members of service were present. It is undisputed that PO Poh pointed his gun at § 87(2)(b) while in his police vehicle.

§ 87(2)(b) was driving east on the Belt Parkway near the exit for Shore Road, Brooklyn, when he observed a parked police vehicle on the right shoulder of the expressway. § 87(2)(b) was driving in the left lane and the police vehicle was stationary on the furthest right side of the expressway. § 87(2)(b) changed from the left lane to enter the right lane, at approximately 65 mph, failed to signal, then merged into the exit onto Shore Road and left the expressway. § 87(2)(b) did not observe the police vehicle move in his rearview mirror and did not see it behind him at the time he exited the Belt Parkway. Approximately three minutes later, § 87(2)(b) stopped at a red light at the intersection of Bay Ridge Ave and Ridge Boulevard, two blocks from the Shore Road exit he had taken. § 87(2)(b) then observed the police vehicle he had seen on Belt Parkway appear in his rear-view mirror with its lights and sirens on. § 87(2)(b) waited for the light he was stopped at to turn green because he felt he could not move his vehicle until then because the light was red. Approximately twenty-seconds later, § 87(2)(b) pulled through the green light and began to stop his vehicle on the right side of the road where there is residential parking so that he could park his vehicle beside them. As § 87(2)(b) was taking this action, the police vehicle drove around his driver’s side and stopped parallel to § 87(2)(b) vehicle. § 87(2)(b) stopped his vehicle as the officer took this action so the two vehicles were stopped beside one another, with § 87(2)(b) driver’s side window open and parallel to the police vehicle’s closed passenger side window. § 87(2)(b) driver’s side window had been rolled down for the duration of his journey, including whilst on Beltway Parkway. § 87(2)(b) looked through his open driver’s window and saw PO Poh had his gun drawn and was pointing it towards § 87(2)(b) head. Through the closed passenger window of the police vehicle, § 87(2)(b) could not hear what PO Poh was saying while his gun was pointed at him, but believed PO Poh was mouthing the words, “Pull the fuck over.” § 87(2)(b) believed PO Poh was indicating that he would use his weapon if § 87(2)(b) did not move his vehicle. No commands were made over PO Poh’s loudspeaker at any time before this. § 87(2)(b) shook his head in the affirmative to indicate to the officer he was trying to pull over. § 87(2)(b)

§ 87(2)(b) put his vehicle back into motion and moved it approximately ten feet ahead until it was completely parked on the right side of the street, double parking the lane of parked vehicles. The officer then pulled his vehicle directly behind § 87(2)(b) and exited. PO Poh approached § 87(2)(b) with his gun holstered, and issued § 87(2)(b) five summonses for VTL infractions (Board Review 01).

Cell phone video captured by § 87(2)(b) begins after he has already been stopped and is parked with PO Poh's police vehicle behind his. No allegations are captured, and the video contains no material evidence (Board Review 02).

PO Poh stated that he was parked on the shoulder of the westbound Belt Parkway, between Exit 1 and Exit 2, when he observed § 87(2)(b) vehicle pass him at a high rate of speed. PO Poh used his speed radar gun to measure § 87(2)(b) speed at 75 mph in an area where the limit is 50 mph. § 87(2)(b) began driving unsafely by weaving in and out of traffic and making unsafe lane changes. PO Poh engaged chase to stop the vehicle, staying approximately a quarter-mile behind the vehicle. PO Poh approximated that § 87(2)(b) vehicle was traveling 70 mph and PO Poh was following behind at 80 or 90 mph. PO Poh had not activated his lights because he believed it would cause unsafe traffic by motivating the vehicles in front of PO Poh to stop or brake whilst in front of him. PO Poh's sirens were also not on, and he was not making any commands over his loudspeaker. PO Poh estimated there were 3 or 4 vehicles between his and § 87(2)(b) before § 87(2)(b) exited off Exit 1, Shore Road. After § 87(2)(b) exited onto Shore Road, PO Poh pursued and came directly behind § 87(2)(b) vehicle with no cars in between. PO Poh engaged his lights and sirens at this point, in addition to saying, "Pull over" over his loudspeaker. § 87(2)(b) proceeded to go through a stop sign without stopping. § 87(2)(b) vehicle then stopped behind another vehicle at a red light and PO Poh stopped directly behind him. PO Poh made another command for § 87(2)(b) to stop his vehicle, over the loudspeaker. § 87(2)(b) began to travel through the red-light once it turned green, at which point PO Poh pulled ahead and around to come parallel to § 87(2)(b) vehicle on § 87(2)(b) driver's side. PO Poh rolled down his window and said, "Pull over." PO Poh stated that as he began pulling alongside § 87(2)(b) vehicle, he unholstered his gun and held it at his chest level, pointing it at § 87(2)(b) door once the vehicles were next to one another. The barrel of his gun was pointed in § 87(2)(b) direction but was not pointed at his physical body. PO Poh denied ever pointing the barrel of the gun directly at § 87(2)(b). PO Poh stated he took this action because historically, police officers have been shot when pulling parallel to a civilian's vehicle. PO Poh did not know if he had any reason to believe § 87(2)(b) was armed or dangerous prior to pointing his weapon at him. PO Poh stated § 87(2)(b) had tinted windows and initially was not stopping his vehicle and it was because of these two factors he had heightened safety concerns. § 87(2)(b) driver's side window was already rolled down when he pulled next to him. PO Poh did not observe anything within § 87(2)(b) vehicle when they were parallel. § 87(2)(b) had at least one hand on the steering wheel and PO Poh could not recall where § 87(2)(b) other hand was. PO Poh maintained his gun pointed at § 87(2)(b) until § 87(2)(b) pulled his vehicle ahead and PO Poh proceeded to re-holster his gun and then stopped behind § 87(2)(b) vehicle. PO Poh exited his vehicle and approached the driver's side of § 87(2)(b) vehicle. PO Poh asked § 87(2)(b) for his license and registration and informed him why he was being stopped. PO Poh proceeded to issue § 87(2)(b) multiple summonses and had no further interaction with him afterward (Board Review 03).

Dashcam footage captures § 87(2)(b) vehicle, an orange sedan, passing PO Poh's vehicle at the 00:32 mark. The speed of § 87(2)(b) vehicle appears consistent with those vehicles in front of his. At the 00:40 mark and when § 87(2)(b) vehicle is no longer in sight, PO Poh puts his vehicle into motion and begins driving at a high rate of speed until he exits on Exit 1, Shore Road. § 87(2)(b) vehicle becomes visible again for the first time, at the 01:38 mark, since initially

passing PO Poh's on the Belt Parkway. PO Poh's vehicle reaches § 87(2)(b) at a traffic light and PO Poh engages his police vehicle's lights at the 01:51 mark and sirens at the 01:57 mark. § 87(2)(b) continues pulling through the intersection, which has a green traffic signal, and PO Poh pulls his vehicle beside § 87(2)(b) driver's side. § 87(2)(b) driver's window is visibly down. § 87(2)(b) stops his vehicle when PO Poh takes this action, marked at 02:07. PO Poh stops his vehicle parallel to § 87(2)(b) and says, "You better pull the fuck over. Pullover. Pullover. Pullover." § 87(2)(b) is not visible, and no verbal response is heard from him. § 87(2)(b) pulls his vehicle immediately ahead and PO Poh proceeds to stop behind him. PO Poh exits his vehicle and issues § 87(2)(b) multiple summonses. PO Poh's actions while inside the police vehicle, prior to stopping § 87(2)(b) are not captured by the dashcam footage which is a fixed angle capturing everything in front of the police vehicle and not within the police vehicle. PO Poh pointing his gun at § 87(2)(b) is not captured on Dashcam footage (Board Review 04).

Body-worn Camera video begins after PO Poh has stopped his vehicle behind § 87(2)(b) and captures only his interaction with § 87(2)(b) after initially approaching his vehicle on foot and issuing him the summonses. As PO Poh drew his gun prior to this moment of BWC activation, the video does not capture PO Poh pointing his gun at § 87(2)(b) (Board Review 04).

NYPD Patrol Guide section 221-01 states that drawing a firearm prematurely or unnecessarily limits a uniformed member's options in controlling a situation and may result in an unwarranted or accidental discharge of the firearm. The decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. When a uniformed member of the service determines that the potential for serious physical injury is no longer present, the uniformed member of the service will holster the firearm as soon as practicable. It is also noted that Members of Service shall not discharge their firearms at or from a moving vehicle unless deadly physical force is being used against the member of the service or another person present, by means other than a moving vehicle (Board Review 05).

It is undisputed that PO Poh pointed his gun at § 87(2)(b) from within his moving police vehicle. § 87(2)(g)

§ 87(2)(g) PO Poh testified that he did not have any specific safety concerns regarding § 87(2)(b) and drew his weapon based upon "historic" police incidents in which officers have been injured during car stops.

§ 87(2)(g)

§ 87(2)(g) There is no evidence that deadly physical force was present or an element in PO Poh's decision to point his weapon from within his moving police vehicle, based upon PO Poh's testimony and dashcam video (Board Review 03 and 04).

§ 87(2)(b) testimony that he attempted to stop his vehicle as soon as he became aware that PO Poh was attempting to stop him, which was when the police vehicle came into view behind him in an active intersection, is corroborated by Dashcam video which illustrates § 87(2)(b) was out of view of the PO Poh's police vehicle for the duration of the pursuit. PO Poh escalated to the use of drawing his weapon within twenty seconds of coming into view of § 87(2)(b) and the instigation of the vehicle stop. PO Poh engaged his lights and sirens for approximately ten seconds total, in an active intersection, before pointing his weapon. § 87(2)(b) actions did not indicate he posed a serious and imminent physical threat to PO Poh or any civilian § 87(2)(g)

§ 87(2)(g)

**Allegation (C) Discourtesy: Police Officer Ricky Poh spoke discourteously to § 87(2)(b)**

It is irrefutable based upon Dashcam footage that PO Poh told § 87(2)(b) to “Pull the fuck over,” time-stamped at the 01:56 mark (Board Review 04).

PO Poh denied ever using any discourtesies. PO Poh denied ever saying “fuck.” PO Poh did not recall ever saying, “You better pull the fuck over” (Board Review 03).

According to NYPD Patrol Guide Procedure 200-02 the mission of the New York City Police Department, members of service are instructed to treat citizens with courtesy and professionalism. This procedure also states that one of the primary values of the NYPD is to respect the dignity of individuals and provide police services with civility and courtesy. Furthermore, according to Patrol Guide Procedure 203-10, members of service are explicitly prohibited from using discourteous language or remarks to address members of the public (Board Review 06 and 07).

PD v. Pichardo establishes that officers may use profanity while interacting with civilians when done in the context of a dynamic situation in which they are attempting to gain control. Officers may not use discourteous language if it serves no legitimate law enforcement purpose (Board Review 11).

The first command PO Poh ever made to § 87(2)(b) was one in which he used profanity. No commands were made over the loudspeaker directing § 87(2)(b) to pull over prior and PO Poh had only engaged his lights and sirens ten seconds prior to using this discourtesy. According to his testimony and corroborated by Dashcam footage, § 87(2)(b) attempted to stop his vehicle at the first opportunity, which was after passing through the active intersection. There is no evidence that PO Poh did not have control of the situation. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 08).
  - PO Ricky Poh has been a member of service for 6 years and has been the subject of three CCRB complaints and five allegations, none of which were substantiated. § 87(2)(g)
- § 87(2)(g)

**Mediation, Civil, and Criminal Histories**

- This complaint was not suitable for mediation.
  - As of March 18, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (Board Review 09).
  - [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- § 87(2)(g)

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Squad: 15

Investigator:	<u>Cloey Romans</u>	<u>Inv. Cloey Romans</u>	<u>4/07/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Owen Godshall</u>	<u>SI Owen Godshall</u>	<u>4/082/2022</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date